



## ***Vietnam Veterans of America***

8605 Cameron Street, Suite 400 • Silver Spring, MD 20910 • Telephone (301) 585-4000  
Main Fax (301) 585-0519 • Advocacy (301) 585-3180 • Communications (301) 585-5245 • Finance (301) 585-5542  
World Wide Web: <http://www.vva.org>

*A Not-For-Profit Veterans Service Organization Chartered by the United States Congress*

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February 25, 2005

Laura Auletta  
Office of Management and Budget  
1800 F Street, NW  
Suite 4006  
Washington, DC 20405

**SUBJ: Federal Contracting Laws, Regulations And Government-Wide Policies On Substantive Procurement Issues.**

Dear Madam:

On behalf of Vietnam Veterans of America (VVA), Employment, Training & Business Opportunity Committee, we would like to submit the following comments regarding Federal Contracting Laws, Regulation and Government-wide Policies On Substantive Procurement Issues, presented before the Acquisition Advisory Panel on February 28, 2005.

When Public Law 108-183, the Veterans Benefit Act was signed into law on December 16, 2003, the Law was clean-cut and concise. It created a Service Disabled Veteran Owned Business (SDVOB) procurement platform that would provide SDVOBs a level playing field through restricted competition and sole source Federal procurement opportunities. The signing of Executive Order 13-360 bolstered the mandate contained in PL 108-183, and left no doubt that the Federal Government was to take all necessary actions to ensure that our Veterans received full consideration as contained within the Law.

Unfortunately, when the FAR Interim Rule was released on May 5, 2004, and disseminated throughout the Federal Government, it contained language that specifically countered the mandate contained in PL 108-183, and more recently, the spirit and intent of your Presidential Executive Order 13-360. The FAR Interim Rule has a potential and actual deleterious impact on SDVOB receiving a sole source contract because a so-called "Rule of Two" was injected into the Interim FAR Rule. This subjective inclusion states that when a contract officer is aware of two or more SDVOBs that can complete the work, the contract officer is apparently supposed to first compete the work amongst all SDVOBs. There is nothing in the "black letter" law that supports this provision. This

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Committee believes such a clause serves no purpose other than to encumber Service Disabled Veterans' rehabilitation efforts to obtain entrepreneurial opportunities.

Such a Rule is counter to the meaning, spirit, and intent of sole source and self-marketing efforts. The so-called "rule of two" in some cases effectively counters efforts by SDVOBs to work hard and identify requirements for their SDVOB by disallowing sole source awards to the most deserving firms. Some officials who do not want to carry out the law or the President's orders use this as an excuse. The "rule of two" is clearly inconsistent with the spirit and intent of PL 108-183 and of Presidential Executive Order 13-360. Further, this subjective rule serves as a potential real impediment to contracting officers as they strive to achieve the 3% SDVOB goal outlined in PL 106-50. This rule must be eliminated from any and all FAR language as soon as possible. We believe the President and Congress wants SDVOBs to have such a sole source program because of the purity of PL 108-183 and the intent of Presidential Executive Order 13-360.

In addition, our Veterans' business community, along with federal contracting officials, agree that the Interim FAR that states a contracting officer "may" restrict work for SDVOBs creates yet another obstacle to getting contracts to SDVOBs. Since the FAR indicates that the contracting officer "shall" set aside work for 8(a)'s and HUB Zone businesses, we would expect the same verbiage to prevail for SDVOBs.

There is no doubt in our minds that the Federal Government contracting community finds it extremely difficult to work with SDVOBs and Veteran Owned Business' (VOB) given the less than committed mandate outlined in the Interim FAR Rule. In order for our SDVOBs to truly begin to benefit from PL 108-183 as written, approved by the Congress and signed by the President, the Rule of Two must be stricken and the word "may" must be changed to read "shall."

We thank the Federal Advisory Committee for the opportunity to submit our comments and look forward to positive outcomes for our SDVOB community. If there are questions or you would like further information, please feel free to contact me in any of the following manners.

Sincerely,

Alan Gibson, Chair  
Employment, Training &  
Business Opportunity (ETaBO) Committee  
Vietnam Veterans of America  
Phone: 573-489-2486 E-mail: [Vvamo1@aol.com](mailto:Vvamo1@aol.com) or [agibson@vva.org](mailto:agibson@vva.org)

## **ALAN K. GIBSON**

Born July 5, 1939, in Webb City, Missouri. Graduated from Webb City High School in 1957. Attended Missouri Valley College for 1 & ½ years then joined the US Army. After retirement from the Army I received my BS from Columbus College (now know as University of Georgia at Columbus), in Columbus, GA

As a volunteer in the US Army, attended Infantry Basic, Advanced Artillery Operation & Intelligence and Airborne Schools. After several assignments and 20 years of service to include 10 years as a Recruiter/Career Counselor, I retired.

For the first 9 years of retirement held several sales jobs in Real Estate, Mutual Funds, Stocks & Bonds. In Nov 1988 accepted an offer with the Missouri Job Service as a Disabled Veterans Representative out stationed in the Harry S. Truman, VA Hospital. Attended Core I (Basic DVOP Training), Core II (Benefits) and Core III (Case Management) at the National Veterans Training Institute (NVTI) in Denver, Colorado. Since June 1999, have been on Long Term Disability without prospects of returning to full time employment.

I am a Life Member of Vietnam Veterans of America since 1989, member of the Employment, Training & Business Opportunity Committee since 1995, Co-Chair from Nov 1999 to Aug 2001 and Chair since Aug 2001 to present.